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Identical letters dated 21 October 2016 from the Permanent Representative of Mali to the United Nations addressed to the Secretary-General and the President of the Security Council

As part of the implementation of the Agreement on Peace and Reconciliation in Mali emanating from the Algiers process, I have the honour to transmit herewith, for your information, a note dated 18 October 2016 on the establishment of the administrative authorities responsible for the communes, cercles and regions of northern Mali during the interim period (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 61, and of the Security Council.

(*Signed*) Issa **Konfourou**
Ambassador
Permanent Representative

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Annex to the identical letters dated 21 October 2016 from the Permanent Representative of Mali to the United Nations addressed to the Secretary-General and the President of the Security Council

Note on the establishment of the interim authorities

I. Introduction

The Agreement on Peace and Reconciliation in Mali emanating from the Algiers process provides for the establishment of governing authorities for the communes, cercles and regions of northern Mali during the interim period.

Accordingly, such interim authorities are established under Act No. 2016-013 of 10 May 2016 amending the Territorial Units Code. The Act was promulgated by the President following a constitutional review. Its implementation is covered under the provisions of Decree No. 2016-0332/P-RM of 18 May 2016 and those of the Entente on the interim authorities and other related arrangements, signed on 19 June 2016 among the Malian signatories to the Agreement.

The above provisions set out in detail the practical arrangements for establishing interim authorities, redeploying deconcentrated State services and appointing the heads of administrative divisions and of the operational coordination mechanism in the Timbuktu, Gao, Kidal, Taoudenni and Ménaka regions during the established interim period, namely 18 to 24 months from the date of signature of the Agreement.

II. Interim period

Under annex 1 of the Agreement, the goals of the interim period are to:

- Ensure the adoption of any regulatory, legislative and constitutional texts necessary for the establishment and operation of the new framework for the country's institutional, political and security systems, its economic, social and cultural development, and its justice and national reconciliation processes;
- Revise the electoral law to ensure that elections are held at the local, regional and national levels during the interim period so that the bodies provided for in the Agreement may be established;
- Implement measures and arrangements for the restoration of peace, cessation of hostilities and reform of the reconstituted defence and security forces in order to enhance their professionalism and their commitment to civilian control;
- Ensure the adoption of agreed measures with a view to addressing the challenge of terrorism and extremism and preventing any resurgence of sectarianism, marginalization or impunity;
- Implement the Agreement in accordance with the implementation timeline.

III. Interim authorities

The five-year terms of the councils elected in the territorial units in 2009, which came to an end in 2014, were extended:

- For a period of six months as from 27 April 2014 by Decree No. 2014-0197/P-RM of 18 March 2014;
- For a period of six months as from 27 October 2014 by Decree No. 2014-0810/P-RM of 23 October 2014;
- For a period of six months as from 27 April 2015 by Act No. 2015-010 of 24 April 2015.

Given the numerous challenges inherent in organizing nationwide elections on the same day for the appointment of new council members, Act No. 2015-047 of 7 December 2015 extended, on an exceptional basis, the terms of office of the commune councils, the cercle councils, the regional councils and the Bamako District council from 27 October 2015 until the inauguration of the new councils of the territorial units.

However, Act No. 2015-047 did not address the specific case of the councils that exist or are to be established in the northern regions in Taoudenni and Ménaka as provided under the Agreement.

Thus, in order to ensure that all the councils of Mali's territorial units are covered legally by the same rules in exceptional circumstances such as dissolution, collective resignation of members, cancellation of elections or cases of force majeure, the term "*autorités transitoires*" (transitional authorities) is used in the present draft.

This term is more flexible than the term "*délégations spéciales*" (interim managing committees) and covers, where the northern territorial units of the country are concerned, those officials entrusted with local government during the 18- to 24-month interim period established by the Agreement.

A commune, cercle or regional council shall be deemed to be not functioning if, for a period of at least 12 consecutive months, it fails to:

- Provide public services;
- Hold two regular meetings.

Therefore, under the provisions of the Entente of 19 June 2016:

(a) Interim authorities shall be established in the territorial units of the five northern regions of Mali: Timbuktu, Gao, Kidal, Taoudenni and Ménaka;

(b) All members of an interim authority shall be eligible for membership of the council it replaces in the territorial unit concerned;

(c) In the regions, the interim authority shall have as many members as the regional council it replaces. The members of the interim regional authority shall be appointed by consensus by the Government, the Platform and the Coordination from among the staff of deconcentrated State services, civil society and the outgoing

council members. The interim regional authority shall appoint from among its members a president and two vice-presidents;

(d) In the cercles, the interim authority shall have as many members as the cercle council it replaces. The members of the interim cercle authority shall be appointed by consensus by the Government, the Platform and the Coordination from among the staff of deconcentrated State services, civil society and the outgoing council members. The interim cercle authority shall appoint from among its members a president and two vice-presidents;

(e) In the communes, the interim authority shall have as many members as the commune council it replaces. In the interest of standardizing the status and powers of the relevant territorial units, interim authorities shall be appointed in all the communes of the Timbuktu, Gao, Kidal, Taoudenni and Ménaka regions. The entire membership of the decision-making body of the commune shall automatically be established as the interim authority. Where the parties determine that a particular commune council is not functioning, the Government, the Platform and the Coordination shall appoint by consensus the members of the interim authority of the relevant commune. The interim commune authority shall appoint from among its members a president and two vice-presidents.

IV. Duties and responsibilities of the interim authorities

The president of each interim authority shall be the head of the local executive.

Accordingly, the deconcentrated State technical services responsible for the following areas shall be under his authority:

- Preschool, primary, secondary, technical and vocational education;
- Community health centres, health-care referral centres and hospitals;
- Rural and urban water supply;
- Industry and trade, crafts, transport, tourism;
- Environment;
- Agriculture;
- Social development;
- Protection and advancement of women, children and the family;
- Animal husbandry and fisheries.

The duties of the interim authorities shall include the following:

- Restore and ensure the functioning of basic social services;
- Plan and coordinate the implementation of development and economic, social and cultural recovery initiatives;
- Be part of the process of updating the voter register;

- Be part of the process of consultation and dialogue with the local populations about the proposed territorial redistricting of the five northern regions;
- Participate in the preparation and holding of elections and referendums;
- Facilitate and prepare for the return, resettlement and reintegration of refugees and displaced persons and provide recovery aid to people affected by disasters;
- Support the implementation of the operational coordination mechanism;
- Monitor and manage land issues.

V. Representatives of the Platform and the Coordination to the State representative in the administrative divisions

The Platform and the Coordination shall each designate special advisers as follows:

- Two to the State representative in the region;
- One each to the State representative in the cercle and arrondissement.

The special advisers shall be appointed by the Government for the duration of the interim period.

They shall be involved in the following tasks:

- Managing security and disarmament, demobilization and reintegration issues in concert with the National Disarmament, Demobilization and Reintegration Commission;
- Providing support to the Truth, Justice and Reconciliation Commission;
- Preparing and holding elections;
- Dealing with any issue of relevance to the implementation of the Agreement.

The salaries and benefits of the special advisers shall be covered by the State budget.

The special advisers to the State representative at the regional level shall have the same salaries and benefits as the chef de cabinet of the governor of the region.

The special advisers to the State representative at the cercle level shall have the same salaries and benefits as the deputy prefect.

The special advisers to the State representative at the arrondissement level shall have the same salaries and benefits as the secretary-general of the sub-prefect.

VI. The State representative in the administrative divisions

The representative of the State shall safeguard the public interest. He shall transmit government policy on major projects and facilitate economic and social development and land management policies.

The decisions of the interim authorities shall be enforceable upon their issuance and transmission to the State representative.

The State representative shall review the administrative decisions of the territorial units as to their lawfulness.

At the regional level, the State representative shall have authority over:

- The heads of districts, cercles and arrondissements;
- The army and security forces;
- The treasury, budget, tax, customs, financial oversight, and government procurement and outsourcing services.

VII. Financial resources of the interim authorities

The interim authorities shall be provided with special appropriations in the form of subsidies, grants and gifts to carry out their duties.

To that end, the Government, the Platform and the Coordination shall hold a joint meeting with the technical and financial partners after the signing of the Entente.

In the Timbuktu, Gao, Kidal, Taoudenni and Ménaka regions, the interim authorities shall also be provided with funding from the national support fund for territorial units for 2016.

The president of each interim authority shall control the expenditures of the relevant territorial unit.

The government accountant of the territorial unit shall be the relevant Treasury officer.

A government financial oversight officer shall be assigned to each territorial unit.

VIII. Other provisions

Special provision

In the event of a threat to law and order, the State representative and the president of the interim authority shall jointly take appropriate police action to restore law and order.

Justice system

Justice shall be rendered by the courts and justices of the peace with extended jurisdiction.

Pending the revision of the 1992 Constitution and the review of subsequent legislation, the customary and religious authorities shall conduct civil mediation.

Transitional measures

Pending the promulgation of the act establishing new territorial units, there shall be established, on an exceptional basis, transitional panels in the newly created administrative divisions.

The transitional panels shall provisionally perform the duties of the future interim authorities.

At the regional level, each transitional panel shall have 15 members selected from civil society. They shall elect from among their members a chairperson and two vice-chairpersons.

At the cercle level, each transitional panel shall have 11 members selected from civil society. They shall elect from among their members a chairperson and two vice-chairpersons.

At the arrondissement level, each transitional panel shall have 7 members selected from civil society. They shall elect from among their members a chairperson and two vice-chairpersons.

The members of the transitional panels shall be appointed by consensus by the Government, the Platform and the Coordination.

Final provisions

The mandates of all the interim authorities shall automatically expire upon the reconstitution and inauguration of the councils of the relevant territorial units by means of elections, as provided under articles 97 and 98 of the Constitution.